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7 UNITED STATES DISTRICT COURT FOR THE  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE  
10

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 AUSTIN HSU,

15 Defendant.  
16  
17

NO. CR20-191-JLR

**PLEA AGREEMENT**

18 The United States of America, by and through Brian T. Moran, United States  
19 Attorney for the Western District of Washington, Steven Masada, Assistant United States  
20 Attorney for said District, Daniel S. Kahn, Acting Chief, Fraud Section, Criminal  
21 Division, United States Department of Justice, and Christopher Fenton, Trial Attorney for  
22 said Section, Defendant, AUSTIN HSU, and Defendant's attorney, Brent Hart, enter into  
23 the following Plea Agreement, pursuant to Federal Rule of Criminal Procedure  
24 11(c)(1)(A) & (B):

25 1. **Waiver of Indictment.** Defendant, having been advised of the right to be  
26 charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge  
27 brought by the United States Attorney in an Information.  
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1           2.     **The Charge.** Defendant, having been advised of the right to have this  
2 matter tried before a jury, agrees to waive that right and enter a plea of guilty to the  
3 charge of Wire Fraud, in violation of Title 18, United States Code, Section 1343,  
4 contained in the Information. By entering a plea of guilty, Defendant hereby waives all  
5 objections to the form of the charging document. Defendant further understands that,  
6 before entering any guilty plea, Defendant will be placed under oath. Any statement  
7 given by Defendant under oath may be used by the United States in a prosecution for  
8 perjury or false statement.

9           3.     **Elements of the Offense.** The elements of the offense of Wire Fraud to  
10 which Defendant is pleading guilty are as follows:

11           First, Defendant knowingly devised or participated in a scheme or plan to defraud,  
12 or a scheme or plan for obtaining money or property by means of false or fraudulent  
13 pretenses, representations, or promises, or omitted facts;

14           Second, the statements made or facts omitted as part of the scheme were material;  
15 that is, they had a natural tendency to influence, or were capable of influencing, a person  
16 to part with money or property;

17           Third, Defendant acted with the intent to defraud; that is, the intent to deceive and  
18 cheat; and

19           Fourth, the defendant used, or caused to be used, an interstate or foreign wire  
20 communication to carry out or attempt to carry out an essential part of the scheme.

21           4.     **The Penalties.** Defendant understands that the statutory penalties  
22 applicable to the offense of Wire Fraud to which he is pleading guilty are as follows: a  
23 maximum term of imprisonment of up to twenty (20) years, a fine of up to two hundred  
24 fifty thousand dollars (\$250,000), a period of supervision following release from prison  
25 of up to three (3) years, and a mandatory special assessment of one hundred dollars  
26 (\$100). If a probationary sentence is imposed, the probation period can be for up to five  
27 (5) years.



1 Defendant understands that supervised release is a period of time following  
 2 imprisonment during which Defendant will be subject to certain restrictive conditions and  
 3 requirements. Defendant further understands that, if supervised release is imposed and  
 4 Defendant violates one or more of the conditions or requirements, Defendant could be  
 5 returned to prison for all or part of the term of supervised release that was originally  
 6 imposed. This could result in Defendant serving a total term of imprisonment greater  
 7 than the statutory maximum stated above.

8 Defendant understands that, as a part of any sentence, in addition to any term of  
 9 imprisonment and/or fine that is imposed, the Court may order Defendant to pay  
 10 restitution to any victim of the offense, as required by law.

11 Defendant further understands that the consequences of pleading guilty may  
 12 include the forfeiture of certain property, either as a part of the sentence imposed by the  
 13 Court or as a result of civil judicial or administrative process.

14 Defendant agrees that any monetary penalty the Court imposes, including the  
 15 special assessment, fine, costs, and restitution, is due and payable immediately and  
 16 further agrees to submit a completed Financial Statement of Debtor form as requested by  
 17 the United States Attorney's Office.

18 **5. Rights Waived by Pleading Guilty.** Defendant understands that, by  
 19 pleading guilty, Defendant knowingly and voluntarily waives the following rights:

- 20 a. The right to plead not guilty and to persist in a plea of not guilty;
- 21 b. The right to a speedy and public trial before a jury of Defendant's
- 22 peers;
- 23 c. The right to the effective assistance of counsel at trial, including, if
- 24 Defendant could not afford an attorney, the right to have the Court
- 25 appoint one for Defendant;
- 26 d. The right to be presumed innocent until guilt has been established
- 27 beyond a reasonable doubt at trial;
- 28

- e. The right to confront and cross-examine witnesses against Defendant at trial;
- f. The right to compel or subpoena witnesses to appear on Defendant's behalf at trial;
- g. The right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and
- h. The right to appeal a finding of guilt or any pretrial rulings.

6. **United States Sentencing Guidelines.** Defendant understands and acknowledges that the Court must consider the sentencing range calculated under the United States Sentencing Guidelines, and possible departures under the Sentencing Guidelines, together with the other factors set forth in Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances of the offense; (2) Defendant's history and characteristics; (3) the need for the sentence to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (4) the need for the sentence to afford adequate deterrence to criminal conduct; (5) the need for the sentence to protect the public from further crimes of Defendant; (6) the need to provide Defendant with educational and vocational training, medical care, or other correctional treatment in the most effective manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims; and (9) the need to avoid unwarranted sentence disparity among defendants involved in similar conduct who have similar records. Accordingly, Defendant understands and acknowledges that:

a. The Court will determine Defendant's Sentencing Guidelines range at the time of sentencing;

b. After consideration of the Sentencing Guidelines and the factors in 18 U.S.C. § 3553(a), the Court may impose any sentence authorized by law, up to the maximum term authorized by law;

c. The Court is not bound by any recommendation regarding the sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines



1 range offered by the parties or the United States Probation Department, or by any  
2 stipulations or agreements between the parties in this Plea Agreement; and

3 d. Defendant may not withdraw a guilty plea solely because of the  
4 sentence imposed by the Court.

5 7. **Ultimate Sentence.** Defendant acknowledges that no one has promised or  
6 guaranteed what sentence the Court will impose.

7 8. **Statement of Facts.** The parties agree on the following facts. Defendant  
8 admits he is guilty of the charged offense:

9 In March 2020, Congress enacted The Coronavirus  
10 Aid, Relief, and Economic Security (“CARES”) Act to  
11 provide emergency financial assistance to Americans  
12 suffering economic harm as a result of the COVID-19  
13 pandemic. Among other things, the CARES Act authorized  
14 the issuance of forgivable loans to small businesses through a  
15 program known as the Paycheck Protection Program (“PPP”).  
16 PPP loans were processed, and funded, by participating  
17 lenders. The loans were guaranteed by the Small Business  
18 Administration (“SBA”). PPP loans were forgivable if the  
19 borrowing business spent the loan proceeds on permissible  
20 expenses (such as payroll, mortgage payments, rent, and  
21 utilities) within a designated period, and used a certain  
22 percentage on payroll, specifically.

23 To qualify for a PPP loan, a qualifying business was  
24 required to submit a PPP loan application signed by an  
25 authorized representative of the business. That application  
26 required the authorized representative to make certain  
27 affirmative certifications, including representing the number  
28 of employees the business had and the business’ average  
monthly payroll expenses. Applicants for PPP loans also  
were required to provide documentation showing their payroll  
expenses. The figures, and the accompanying documentation,  
were used to determine whether a business was eligible for a  
PPP loan, and, if so, the size of such loan.

The Economic Injury Disaster Loan (“EIDL”) program  
is an SBA program that provides low-interest financing to  
small businesses, renters, and homeowners in regions affected

by declared disasters. The CARES Act authorized the SBA to provide EIDLs to eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic.

EIDL applications are submitted directly to the SBA. The amount of the loan, if the application is approved, is determined based, in part, on the information provided by the application about employment, revenue, and cost of goods. If the applicant also obtains a loan under the PPP, the EIDL funds cannot be used for the same purpose as the PPP funds.

Between April 27, 2020, and July 12, 2020, Defendant, Austin Hsu, submitted fraudulent applications for nine disaster loans for five different businesses, namely Blueline Capital LLC (“Blueline”), Evergreen Forest Inc. (“Evergreen”), Huggtopus Corporation (“Huggtopus”), Prodigy Holdings PLLC. (“Prodigy”), and Sequoia West Corporation (“Sequoia”). The loans were:

<b>Applicant</b>	<b>Amount Sought</b>	<b>Lender</b>	<b>Result of Application</b>
Sequoia	\$54,627.97	Square Inc. (“Square”)	Approved
Prodigy	\$105,451	Kabbage Inc. (“Kabbage”)	Approved
Evergreen	\$133,275	Kabbage	Approved
Huggtopus	\$115,751	Kabbage	Approved
Evergreen	\$150,000	SBA	Approved
Huggtopus	\$150,000	SBA	Canceled
Huggtopus	\$150,000	SBA	Canceled
Sequoia	\$150,000	SBA	Canceled
Blueline	\$150,000	SBA	Approved



1  
2 In applying for the loans of behalf of Evergreen,  
3 Huggtopus, Prodigy, and Sequoia, Hsu represented that each  
4 of these companies had employees to whom it paid salaries  
5 and payroll taxes. Those representations were false. None of  
6 the companies had any employees to whom it paid salaries or  
7 payroll taxes.

8 In addition, in submitting the PPP loan application on  
9 behalf of Sequoia to Square, Hsu provided a copy to Square  
10 of a supposed IRS Form 940 for Sequoia. This form showed  
11 that Sequoia had paid a large amount, approximately  
12 \$242,182.22, to employees in 2019. Hsu also submitted a  
13 copy of a supposed IRS Form 941 for Sequoia, which showed  
14 it had paid another large amount, approximately \$95,115, to  
15 employees in the first quarter of 2020. In submitting the loan  
16 application of behalf of Prodigy to Kabbage, Hsu provided a  
17 copy to Kabbage of a supposed IRS Form 940 for Prodigy.  
18 This form showed that Prodigy had paid a large amount,  
19 approximately \$506,169, to employees in 2019. These forms  
20 were fraudulent. Hsu created them for the purpose of  
21 supporting the PPP applications. None had actually been  
22 filed with the IRS (and the amounts of the tax deposits  
23 reported on the forms had not been paid to the IRS).

24 In addition, in submitting the PPP loan applications on  
25 behalf of Prodigy, Huggtopus, and Evergreen, Hsu submitted  
26 a copy of supposed Forms W-2 and W-3 for Prodigy,  
27 Huggtopus, and Evergreen. These forms listed over twenty  
28 employees who purportedly worked for these businesses.  
Nearly all of the names were the same. These forms also  
were fraudulent. Hsu created them for the purpose of  
supporting the PPP applications. None had actually been  
filed with the Social Security Administration. In creating  
these forms, he used the names of current and former  
employees from another business – Blackrock Services, P.A.  
– who had never actually been paid by Prodigy, Huggtopus,  
and Evergreen.

On June 26, 2020, Hsu incorporated Blueline for the  
purpose of applying for an EIDL loan. On June 29, 2020,

1 Hsu applied for an Employer Identification Number on behalf  
2 of Blueline using his mother's name.

3 On July 12, 2020, Hsu submitted an application with  
4 the SBA for an EIDL loan for Blueline in the amount of  
5 \$150,000. Hsu represented to the SBA that Blueline had been  
6 in business since 2017 and that, as of January 31, 2020,  
7 Blueline had nine employees and gross receipts of over  
8 \$1,500,000 million. These representations were false since  
9 Blueline had only been incorporated in 2020 and had no  
10 business or operations.

11 Based on the Blueline application, the SBA paid  
12 \$149,900 of loan proceeds to Hsu's account ending in 6496  
13 at Salal Credit Union. The process of issuing this payment  
14 caused an interstate wire from Denver, Colorado to Seattle,  
15 Washington, as part of the wire transfer in the amount of  
16 \$149,900 from the SBA's bank account to Hsu's bank account  
17 at Salal Credit Union.

18 As part of the scheme, Hsu fraudulently applied for a  
19 total of \$1,159,104.97 in PPP and EIDL loans. The total  
20 amount of PPP and EIDL loan proceeds that Hsu received  
21 from the six loans that were approved was \$709,104.97.

22 In October 2020, the United States obtained seizure  
23 warrants and seized the amounts listed in the table below:

Business	Loan	Amount Seized
Sequoia	• \$54,627.97 paid into Blackrock Services' Bank of America Account -5116	• \$57,981.31 from Bank of America Account -5116
Huggtopus	• \$115,751 paid into Blackrock Services' Bank of America Account -5116	
Prodigy	• \$105,451 paid into Prodigy's Bank of America Account -6280	• \$26,620.87 from Bank of America Account -6280
Evergreen	• \$133,275 paid into Sequoia's Bank of America Account -9731	• \$133,275 from Bank of America Account -9731



Evergreen	• \$149,900 paid into Evergreen's Umpqua Bank Account -1127	• \$149,900 from Umpqua Bank Account -1127
Blueline	• \$149,900 paid into Blueline's Salal Credit Union Account -6496	• \$149,900 from Salal Credit Union Bank Account -6496

Defendant subsequently paid \$191,427.79 to the Clerk of Court, thereby ensuring that funds representing all the loan proceeds have been either seized or returned to the United States.

The parties agree that the Court may consider additional facts contained in the Presentence Report (subject to standard objections by the parties) and/or that may be presented by the United States or Defendant at the time of sentencing, and that the factual statement contained herein is not intended to limit the facts that the parties may present to the Court at the time of sentencing.

9. **Sentencing Factors.** The parties agree that the following Sentencing Guidelines provisions apply to this case:

- a. Defendant's offense is governed by § 2B1.1 of the Sentencing Guidelines;
- b. Defendant's base offense level is 7, pursuant to § 2B1.1(a)(1), because Defendant is pleading guilty to wire fraud, which is referenced to § 2B1.1 and has a statutory maximum of 20 years;
- c. Defendant's offense level is increased by 14 levels pursuant to § 2B1.1(b)(1)(H), because the loss exceeded \$550,000, but did not exceed \$1,500,000; and
- d. Defendant's offense level is increased by 2 levels, pursuant to § 2B1.1(b)(10), because the offense involved sophisticated means.
- e. As a result, Defendant's total offense level, prior to any adjustment for acceptance of responsibility, is 23.

1 Defendant understands, that at the time of sentencing, the Court is free to reject  
2 these stipulated adjustments, and is further free to apply additional downward or upward  
3 adjustments in determining Defendant's Sentencing Guidelines range.

4 10. **Acceptance of Responsibility.** At sentencing, *if* the Court concludes  
5 Defendant qualifies for a downward adjustment for acceptance of responsibility pursuant  
6 to USSG § 3E1.1(a) and Defendant's offense level is 16 or greater, the United States will  
7 make the motion necessary to permit the Court to decrease the total offense level by three  
8 (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because Defendant has assisted the  
9 United States by timely notifying the United States of Defendant's intention to plead  
10 guilty, thereby permitting the United States to avoid preparing for trial and permitting the  
11 Court to allocate its resources efficiently.

12 11. **Sentencing Recommendation.** The United States agrees that it will  
13 recommend a term of imprisonment that is no higher than the low end of Defendant's  
14 sentencing range under the Sentencing Guidelines. Defendant understands that this  
15 recommendation is not binding on the Court and the Court may reject the  
16 recommendation and may impose any term of imprisonment up to the statutory maximum  
17 penalty authorized by law. Defendant further understands that Defendant cannot  
18 withdraw his guilty plea simply because of the sentence imposed by the Court.  
19 Defendant shall be free to recommend any sentence, consistent with the law, that  
20 Defendant believes is appropriate. Except as otherwise provided in this Plea Agreement,  
21 the parties are free to present arguments regarding any other aspect of sentencing.

22 12. **Restitution.** Defendant agrees that he will pay restitution to Square Inc. in  
23 the amount of \$54,627.97, to Kabbage, Inc. in the amount of \$354,477, and to the United  
24 States Small Business Administration in the amount of \$300,000, for a total restitution  
25 obligation of \$709,104.97. Defendant will receive credit for any amounts already paid by  
26 him. The parties agree that, after judgment, they will seek to apply amounts paid to the  
27 Clerk of Court to restitution, and further request to apply seized funds to restitution  
28 through restoration.



1 The full amount of restitution shall be due and payable immediately on entry of  
2 judgment and shall be paid as quickly as possible. If the Court finds that Defendant is  
3 unable to make immediate restitution in full and sets a payment schedule as contemplated  
4 in 18 U.S.C. § 3664(f), Defendant agrees that the Court's schedule represents a minimum  
5 payment obligation and does not preclude the U.S. Attorney's Office from pursuing any  
6 other means by which to satisfy Defendant's full and immediately-enforceable financial  
7 obligation, including, but not limited to, by pursuing assets that come to light only after  
8 the district court finds that Defendant is unable to make immediate restitution.

9 Defendant agrees to disclose all assets in which Defendant has any interest or over  
10 which Defendant exercises control, directly or indirectly, including those held by a  
11 spouse, nominee, or third party. Defendant agrees to cooperate fully with the United  
12 States' investigation identifying all property in which Defendant has an interest and with  
13 the United States' lawful efforts to enforce prompt payment of the financial obligations to  
14 be imposed in connection with this prosecution. Defendant's cooperation obligations are:  
15 (1) before sentencing, and no more than 30 days after executing this Plea Agreement,  
16 truthfully and completely executing a Financial Disclosure Statement provided by the  
17 United States Attorney's Office and signed under penalty of perjury regarding  
18 Defendant's and Defendant's spouse's financial circumstances and producing supporting  
19 documentation, including tax returns, as requested; (2) providing updates with any  
20 material changes in circumstances, as described in 18 U.S.C. § 3664(k), within seven  
21 days of the event giving rise to the changed circumstances; (3) authorizing the United  
22 States Attorney's Office to obtain Defendant's credit report before sentencing;  
23 (4) providing waivers, consents or releases requested by the U.S. Attorney's Office to  
24 access records to verify the financial information; (5) authorizing the U.S. Attorney's  
25 Office to inspect and copy all financial documents and information held by the U.S.  
26 Probation Office; (6) submitting to an interview regarding Defendant's Financial  
27 Statement and supporting documents before sentencing (if requested by the United States  
28 Attorney's Office), and fully and truthfully answering questions during such interview;

1 and (7) notifying the United States Attorney's Office before transferring any interest in  
 2 property owned directly or indirectly by Defendant, including any interest held or owned  
 3 in any other name, including all forms of business entities and trusts.

4 The parties acknowledge that voluntary payment of restitution prior to the  
 5 adjudication of guilt is a factor the Court considers in determining whether Defendant  
 6 qualifies for acceptance of responsibility pursuant to USSG § 3E1.1(a). In addition, in  
 7 any event, the government will consider Defendant's cooperation regarding restitution in  
 8 making its sentencing recommendation.

9 13. **Forfeiture.** The Defendant understands that the forfeiture of property is  
 10 part of the sentence that must be imposed in this case. The Defendant agrees to forfeit to  
 11 the United States immediately his right, title, and interest in all property that constitutes  
 12 or is traceable to proceeds of his commission of Wire Fraud. All such property is  
 13 forfeitable pursuant to Title 18, United States Code, Section 981(a)(1)(C), by way of Title  
 14 21, United States Code, Section 2461(c), and includes but is not limited to the following  
 15 funds and sum, representing proceeds the Defendant obtained from the offense:

- 16 a. \$149,900 in U.S. funds seized on October 27, 2020 from Umpqua  
 17 Bank account ending in 1127, held in the name of Evergreen Forest  
 18 LLC;
- 19 b. \$57,981.31 in U.S. funds seized on November 2, 2020 from Bank of  
 20 America account ending in 5116, held in the name of Blackrock  
 21 Services;
- 22 c. \$26,620.87 in U.S. funds seized on November 2, 2020 from Bank of  
 23 America account ending in 6280, held in the name of Prodigy  
 24 Holdings PLLC;
- 25 d. \$133,275 in U.S. funds seized on November 2, 2020 from Bank of  
 26 America account ending in 9731, held in the name of Sequoia West  
 27 Corp.;



- 1 e. \$149,900 in U.S. funds seized on November 2, 2020 from Salal  
2 Credit Union account ending in 6496, held in the name of Austin  
3 Hsu; and  
4 f. a sum of money in the amount of \$191,427.79, reflecting the  
5 unrecovered proceeds the defendant obtained from the offense.

6 With respect to the sum of money identified above in subsection (f), the Defendant  
7 understands and acknowledges this forfeited sum of money is separate and distinct from  
8 the restitution that is ordered in this case. The United States agrees, however, that it will  
9 request the Attorney General apply any amounts it collects toward satisfaction of this  
10 forfeited sum to the restitution that is ordered. The United States also agrees that any  
11 amount the Defendant pays toward restitution will be credited against this forfeited sum.

12 The Defendant agrees to fully assist the United States in the forfeiture of any  
13 forfeitable property and to take whatever steps are necessary to pass clear title to the  
14 United States, including but not limited to: surrendering title and executing any  
15 documents necessary to effect forfeiture; assisting in bringing any property located  
16 outside the United States within the jurisdiction of the United States; and taking whatever  
17 steps are necessary to ensure that property subject to forfeiture is not sold, disbursed,  
18 wasted, hidden, or otherwise made unavailable for forfeiture. The Defendant agrees not  
19 to file a claim to any of this property in any federal forfeiture proceeding, administrative  
20 or judicial, that may be or has been initiated, or to otherwise contest any federal forfeiture  
21 proceeding that may be or has been initiated. The Defendant also agrees he will not assist  
22 any party who may file a claim to this property in any federal forfeiture proceeding.

23 The United States reserves its right to proceed against any remaining property not  
24 identified in this Plea Agreement, including any property in which the Defendant has any  
25 interest or control, if that property constitutes or is traceable to proceeds of his  
26 commission of Wire Fraud or was involved in his commission of Money Laundering.

27 14. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement,  
28 the United States Attorney's Office for the Western District of Washington agrees not to

1 prosecute Defendant for any additional offenses known to it as of the time of this Plea  
2 Agreement based upon evidence in its possession at this time, and that arise out of the  
3 conduct giving rise to this investigation. In this regard, Defendant recognizes the United  
4 States has agreed not to prosecute all of the criminal charges the evidence establishes  
5 were committed by Defendant solely because of the promises made by Defendant in this  
6 Plea Agreement. Defendant agrees, however, that, for purposes of preparing the  
7 Presentence Report, the United States Attorney's Office will provide the United States  
8 Probation Office with evidence of all conduct committed by Defendant.

9 Defendant agrees that any charges to be dismissed before or at the time of  
10 sentencing were substantially justified in light of the evidence available to the United  
11 States, were not vexatious, frivolous or taken in bad faith, and do not provide Defendant  
12 with a basis for any future claims under the "Hyde Amendment," Pub. L. No. 105-119  
13 (1997).

14 **15. Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if  
15 Defendant breaches this Plea Agreement, the United States may withdraw from this Plea  
16 Agreement and Defendant may be prosecuted for all offenses for which the United States  
17 has evidence. Defendant agrees not to oppose any steps taken by the United States to  
18 nullify this Plea Agreement, including the filing of a motion to withdraw from the Plea  
19 Agreement. Defendant also agrees that, if Defendant is in breach of this Plea Agreement,  
20 Defendant has waived any objection to the re-institution of any charges that previously  
21 were dismissed or any additional charges that had not been prosecuted.

22 Defendant further understands that if, after the date of this Agreement, Defendant  
23 should engage in illegal conduct, or conduct that violates any conditions of release or the  
24 conditions of confinement (examples of which include, but are not limited to, obstruction  
25 of justice, failure to appear for a court proceeding, criminal conduct while pending  
26 sentencing, and false statements to law enforcement agents, the Pretrial Services Officer,  
27 Probation Officer, or Court), the United States is free under this Plea Agreement to file  
28 additional charges against Defendant or to seek a sentence that takes such conduct into



consideration by requesting the Court to apply additional adjustments or enhancements in its Sentencing Guidelines calculations in order to increase the applicable advisory Guidelines range, and/or by seeking an upward departure or variance from the calculated advisory Guidelines range. Under these circumstances, the United States is free to seek such adjustments, enhancements, departures, and/or variances even if otherwise precluded by the terms of the Plea Agreement.

**16. Waiver of Appellate Rights and Rights to Collateral Attacks.**

Defendant acknowledges that, by entering the guilty plea required by this Plea Agreement, Defendant waives all rights to appeal from Defendant's convictions and any pretrial rulings of the Court. Defendant further agrees that, provided the Court imposes a custodial sentence that is within or below the Sentencing Guidelines range (or the statutory mandatory minimum, if greater than the Guidelines range) as determined by the Court at the time of sentencing, Defendant waives to the full extent of the law:

- a. Any right conferred by Title 18, United States Code, Section 3742, to challenge, on direct appeal, the sentence imposed by the Court, including any fine, restitution order, probation or supervised release conditions, or forfeiture order (if applicable); and
- b. Any right to bring a collateral attack against his convictions and sentence, including any restitution order imposed, except as it may relate to the effectiveness of legal representation.

This waiver does not preclude Defendant from bringing an appropriate motion pursuant to 28 U.S.C. § 2241, to address the conditions of Defendant's confinement or the decisions of the Bureau of Prisons regarding the execution of Defendant's sentence.

If Defendant breaches this Plea Agreement at any time by appealing or collaterally attacking (except as to effectiveness of legal representation) the convictions or sentence in any way, the United States may prosecute Defendant for any counts, including those with mandatory minimum sentences, that were dismissed or not charged pursuant to this Plea Agreement.

1       17.   **Voluntariness of Plea.** Defendant agrees that Defendant has entered into  
2 this Plea Agreement freely and voluntarily, and that no threats or promises were made to  
3 induce Defendant to enter a plea of guilty other than the promises contained in this Plea  
4 Agreement or set forth on the record at the change of plea hearing in this matter.

5       18.   **Statute of Limitations.** In the event this Plea Agreement is not accepted  
6 by the Court for any reason, or Defendant breaches any of the terms of this Plea  
7 Agreement, the statute of limitations shall be deemed to have been tolled from the date of  
8 the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the  
9 Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach  
10 of the Plea Agreement by Defendant is discovered by the United States Attorney's  
11 Office.

12       19.   **Completeness of Agreement.** The United States and Defendant  
13 acknowledge that these terms constitute the entire Plea Agreement between the parties,  
14 except as may be set forth on the record at the change of plea hearing in this matter. This  
15 Plea Agreement binds only the United States Attorney's Office for the Western District  
16 of Washington and the Fraud Section of the Criminal Division of the United States

17 //

18 //

19 //



1 Department of Justice. It does not bind any other United States Attorney's Office or any  
2 other office or agency of the United States, or any state or local prosecutor.

3 DATED: this 21<sup>st</sup> day of January, 2021.

4  
5 

6 AUSTIN HSU

7 Defendant

8  
9 

10 BRENT HART

11 Attorney for Defendant

12 s/ Steven Masada

13 STEVEN T. MASADA

14 Assistant United States Attorney

15 DANIEL S. KAHN

16 Acting Chief

17 Fraud Section, Criminal Division

18 Department of Justice

19 s/ Christopher Fenton

20 By: CHRISTOPHER FENTON

21 Trial Attorney

22 Fraud Section, Criminal Division

23 Department of Justice